

Application Number : 10/676,572
Applicant : Stuart D. Cheshire
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T.C./A.U. : 2455
Examiner : Hamza, Faruk

Confirmation Number: 7890

Docket Number : APL-P3153
Customer No. : 62096

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicant respectfully requests a pre-appeal-brief conference to review the rejection of the above-referenced application under 35 U.S.C. § 103 as being obvious based on Danknick et al. (U.S. pat. no. 6,021,429, hereinafter “Danknick”) in view of Eatough (U.S. pub. no. 2003/0050955, hereinafter “Eatough”).

I. STATUS OF APPLICATION

In the Official Action mailed **30 December 2010** (hereinafter “1210 OA”), the Examiner reviewed claims 1, 5-9, 13-16, 21-24, 35-37, and 41-43. Examiner rejected claims 1, 8-9, 16-17, 24, and 41-43 under 35 U.S.C. § 103(a) based on Danknick in view of Eatough. Examiner rejected claims 34-37 under 35 U.S.C. § 103(a) based on Danknick and Eatough in view of George (U.S. pat. no. 7,143,108, hereinafter “George”). Examiner objected to claims 5-7, 13-15, and 21-23 as being dependent upon a rejected base claim, but pointed out that these claims would be allowable if rewritten in independent form.

In an Advisory Action mailed **21 March 2011** (hereinafter “0311 AA”), Examiner maintained the rejection from the 1210 OA based on Danknick and Eatough and made further remarks.

II. REMARKS AND ARGUMENTS

Rejection under 35 U.S.C. § 103

In rejecting independent claims 1, 9, and 17 in the instant application, Examiner argued as follows (using the rejection of claim 1 as exemplary):

As to claim 1, **Danknick teaches** a method for invalidating a resource record in a local cache at a client computer system within a network, comprising: receiving a message from a second client querying a device; locating a second resource record associated with the second device; waiting for a response to the multicast query; and if after a pre-determined number of queries the response to the query is not received in the pre-determined amount of time, invalidating the second resource record (Column 8, lines 1-Column 9, lines 8).¹

Applicant respectfully disagrees with this rejection. Although describing a network device that can be configured to function as a “list manager,” Danknick nowhere describes the claimed embodiments.

In the Danknick system, a device on a local-area network (LAN) can be configured in one of two ways -- either as a “list manager” for the LAN or as a “slave device” on the LAN.² In the Danknick system, when a device is configured as a list manager, the device “creates and stores a list of devices” and provides other (slave) devices with the stored list of devices.³ For example, Danknick provides the following explanation:

If, on the other hand, NEB 2 receives the device address of the other network device, processing proceeds to step S511 in which NEB 2 **adds the device address of that other network device to the list of device addresses** in NEB 2. The device address is preferably added to the bottom of the list, although it may be added elsewhere as desired;⁴

Regarding the list of device addresses, a list manager on LAN 1 (which may or may not be NEB 2) maintains a list of device addresses from other

¹ see *id.*, page 3

² see Danknick, col. 1, lines 41-50

³ see *id.*, FIG. 5B, elements S506 and S521, and cols. 9-12

⁴ see *id.*, col. 10, lines 15-24

devices on LAN 1. The list typically includes device addresses and corresponding device identification information for each device address ... Examples of device addresses and identification information **stored in a memory** on NEB 2 are shown in FIG. 8;⁵ and

In step S520 NEB 2 determines whether a peripheral on LAN 1, such as PC 26, has requested the list of device addresses stored in NEB 2. If, in step S520, NEB 2 determines that a peripheral has requested its list of device addresses, NEB 2 **provides the peripheral with the list of device addresses** in step S521.⁶

Although Danknick describes a device that (when configured as a list manager) creates and stores a list of devices on the LAN, Danknick nowhere describes the operations in the claimed embodiments.

Specifically, Danknick nowhere describes (1) **a client computer system** receiving a multicast message from (2) **another client** querying (3) **a device**, wherein (1) the **client computer system** subsequently invalidates a resource record in (1) the **client computer system** if a predetermined number of multicast messages from (2) **the other client** querying (3) **the device** have been received without receiving the multicast response from (3) **the device** to (2) **the other client**. One having skill in the art can clearly see that **the client computer system** in the claimed embodiments performs the invalidation operation **based on communications** between **the other client and the device**.

Remarks from the Advisory Action

In the 0311 AA, Examiner made the following additional remarks regarding the amendments in the office action response filed 10 March 2011:

Claims 1,8,9,16,17,24,35-37 and 41-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the

⁵ see *id.*, col. 7, line 57-col. 8, line 6

⁶ see *id.*, col. 11, lines 59-64

invention. Claims 1, 9 and 17 recite the limitation "the other client". There is insufficient antecedent basis for this limitation in the claim.

Applicant respectfully disagrees with the rejection, the usage of the term "the other client" after referring to "another client" does not render the claim indefinite. The claim is not indefinite because common spoken usage renders the terms related sufficiently well for a person having ordinary skill in the art to recognize their equivalence. For this reason, Applicant respectfully requests the withdrawal (or the non-assertion) of the rejection under 35 U.S.C. § 112.

In addition, Examiner remarked as follows:

In the remarks the applicant argues in substance that; A) Danknick does not teach a client computer system receiving a multicast message from a second client querying a device and performing an operation in the client computer system when the device has not responded to a predetermined number of queries from the second device. In response to A) Applicant's argument is inconsistent with the claims. Argued limitation(s) are not found in the claims. Claims do not recite "a client computer system receiving a multicast message", "performing an operation in the client computer system". Claims do not explicitly claim a client computer system receiving a multicast message. Also claims do not explicitly recite which client performing an operation when the device has not responded to a predetermined number of queries from the second device. Claimed subject matter not the specification is the measure of the invention.

In the preceding remarks in this paper, Applicant has clarified the argument relating to the distinction between Danknick and the claimed embodiments. However, Applicant respectfully observes that the preamble of the claim clearly indicates that the operations in the claim are performed in "at a client computer system," meaning that operations like "receiving" occur in the client computer system. Also, the "operation" previously remarked on by Applicant has been reworded in the remarks above to more clearly indicate the invalidation operation in the last line of the claim. Applicant respectfully requests the re-evaluation of the remarks, as the aspects in the remarks are individually and collectively in the claimed embodiments.

III. CONCLUSION

Because Danknick nowhere describes the claimed embodiments Danknick (and Danknick in combination with Eatough) cannot render the claimed embodiments obvious.⁷ For this reason, Applicant respectfully requests the withdrawal of the rejection of independent claims 1, 9, and 17 under 35 U.S.C. § 103 based on Danknick in combination with Eatough. Applicant further requests the withdrawal of the rejection of any dependent claims in the instant application for the same reason.

Respectfully submitted,

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⁷ see at least Manual of Patent Examining Procedure (MPEP) § 2141(III) and 2143.01(IV-VI)